

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA ex rel,  
Drew Edmondson, et al.,  
  
Plaintiff,  
  
vs.  
  
TYSON FOODS, INC., et. al.,  
  
Defendants and Third Party Plaintiffs,  
  
v.  
  
CITY OF TAHLEQUAH, et al.,  
  
Third Party Defendants.

No. 05-CV-0329-JOE-SAJ

**FILED**  
**APR 13 2006**  
Phil Lombardi, Clerk  
U.S. DISTRICT COURT

**ANSWER OF THIRD PARTY DEFEDANT,  
JOHN STACY d/b/a BIG JOHN EXTERMINATORS  
TO THIRD PARTY COMPLAINT**

Comes now John Stacy doing business as Big John's Exterminators of Stilwell, Adair County, Oklahoma, and for his Answer to the Third Party Complaint of Tyson Foods, Inc., Tyson Poultry, Inc. Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's, Inc., George's Farms, Inc., and Willow Brook Foods, Inc., (collectively referred to hereinafter as Third Party Plaintiffs) alleges and states:

**I. BACKGROUND**

1. Third Party Defendant, John Stacy d/b/a Big John's Exterminators, (hereinafter referred to as "Big John") alleges and states that

he is without sufficient knowledge or information with which to admit the allegations contained in the Third Party Complaint paragraphs 1 through 9, and therefore denies the same and demands strict proof thereof.

## **II. PARTIES**

2. Third Party Defendant Big John does not have sufficient knowledge or information with which to admit the allegations contained in the Third Party Complaint, paragraphs 10 through 18, and therefore denies the same and demands strict proof thereof.

## **III. THIRD PARTY DEFENDANTS**

3. Third Party Defendant Big John is without sufficient knowledge or information to admit the allegations of Third Party Complaint paragraphs 19 through 170, except paragraph 46, and therefore denies all such allegations and demands strict proof thereof. That as to paragraph 46 Third Party Defendant Big John admits that he is licensed by the State of Oklahoma to apply liquid fertilizer for ornamental and turf grass which operation is limited to Stilwell community, but specifically denies that his activities and operations give rise to liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

## **IV. JURISDICTION AND VENUE**

4. Third Party Defendant Big John denies jurisdiction and venue. Specifically, jurisdiction and venue, if any, lies within the United States District Court for the Eastern District of Oklahoma. Specifically, it is further

denied that Third Party Defendant have engaged in any activities within the jurisdiction of the United States District Court for the Northern District of Oklahoma for which it would be liable.

## **V. STATEMENTS OF FACT**

### **A. The Underlying Lawsuit**

5. Third Party Defendant Big John is without sufficient knowledge or information to admit to the allegations of the Third Party Complaint under paragraphs 174 through 195 and therefore denies each and every allegation and demands strict proof thereof.

### **B. General Allegations Regarding Third Party Defendants**

6. Third Party Defendant Big John specifically denies the allegations of the Third Party Complaint paragraphs 196 through 221, inclusive, and demands strict proof thereof.

## **AFFIRMATIVE DEFENSES**

7. Third Party Defendant for affirmative defenses alleges, to-wit:
- a. failure to state claim upon which relief can be granted;
  - b. lack of standing;
  - c. legal and equitable estoppel;
  - d. lack of venue; and
  - e. lack of causation.

**WHEREFORE**, Third Party Defendant John Stacy d/b/a Big John's Exterminators pray that the Third Party Plaintiffs, Tyson Foods, Inc., Tyson Poultry, Inc. Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's, Inc., George's Farms, Inc., and Willow Brook Foods, Inc. take nothing by their Third Party Complaint and that this Third Party Defendant be discharged with his costs including a reasonable attorney fee, and such other relief as may be just and equitable.

Respectfully submitted,

JOHN STACY D/B/A BIG JOHN'S  
EXTERMINATORS, Third Party Defendant

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CERTIFICATE OF MAILING

I hereby certify that on the 14th day of April, 2006, I mailed a true and correct copy of the above and foregoing instrument to the following with postage thereon fully prepaid, to-wit:

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